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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,841	03/09/2001	Steven Francis Colborne	LEICA/9	8013
2292	7590	03/21/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			CORRIELUS, JEAN B	
			ART UNIT	PAPER NUMBER
			2611	
DATE MAILED: 03/21/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/802,841

Applicant(s)

COLBORNE ET AL.

Examiner

Jean B Corrielus

Art Unit

2637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 9-20 and 22-26 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 8 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The objection to the specification has been withdrawn.

### ***Claim Objections***

2. Claims 8 and 21 are objected to because of the following informalities:

Claim 8 recites applying the subsample clock signals to a counter, resetting the counter with the sample clock signals; and using the counter value as a measure of clock phase. Shouldn't the counter be reset before applying the clock phase? It appears that if the counter is reset after applying the clock, the counter will not provide a measure of the clock phase from the subsample clock signals, as the counter will be forced to a predetermined state or value, dictated by the "sample clock signals". Outputting the value of the counter after resetting the same will reflect a value related to the "sample clock signals" not the "subsample clock signals". Hence the limitation recited in claim 8 would not be consistent with the limitation recited in claim 6 that recites that "deriving from the subsample clock signals a measure of clock phase". The same comment applies to claim 21.

### ***Drawings***

3. The drawings objection has been withdrawn in view of applicant's comment.
4. This application is in condition for allowance except for the formal matters noted above.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

***Allowable Subject Matter***

5. Claims 1-7, 9-20, 22-26 are allowed.
6. Claims 8 and 21 would be allowable if amended to overcome the objection sets forth above.

***Response to Arguments***

7. Applicant's arguments filed 1/31/06 have been fully considered but they are not persuasive. Applicant argues that fig. 17 of the drawing and page 27-28 teach providing a subsampling clock signal to counter 144 that has a value 0-99 and further teaches that the counter is reset by applying pulses from a primary clock signal provided by clock source 140. The comment further stated that the numeric count in the counter 144 indicates a subsample time value in the hundreds of sample interval in other words, for every sampling interval, a subsampling cycle with 100 steps (0-99) is provided and the content of the counter is outputted, indicating a subsample time value. However, the claim language suggests that the value as output by the counter is the value related to the sample clock signals not a value related to the subsample clock signals" because after applying the subsample clock signals to the counter, the counter is reset to a new value, reflecting the value related to the sample clock signals. The value as outputted by


the counter is the content of the counter after the resetting step. Such a value is related to the "sample clock signals" not the "subsample clock signals."

The objection to claims 2, 6, 7, 19 and 20 has been withdrawn in view of the amendment, filed on 1/31/06.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is 571-272-3020. The examiner can normally be reached on Maxi-Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jean B Corrielus  
Primary Examiner  
Art Unit 2637  
3-17-06